

8/5 (13)
080

Peter Pippas Karate Center, 531 Main Street
USE Special Permit #05/06/13 – 443
First Amendment
August 5, 2013



Board of Selectmen

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6611
Fax (978) 929-6340
bos@acton-ma.gov
www.acton-ma.gov

**First Amendment of USE Special Permit
DECISION
#05/06/13 - 443**

Peter Pippas Karate Center
USE Special Permit
531 Main Street
August 5, 2013

GRANTED with Conditions

First Amendment by the Acton Board of Selectmen (hereinafter the Board) of the Board's original Decision #05/06/13 – 443 issued to Peter Pippas Karate Center, filed with the Town Clerk on May 6, 2013 and recorded in the Middlesex South Registry of Deeds, Book XXX, Page XXX (hereinafter the Original Decision).

This First Amendment is in response to the Applicant's request for clarification of the permitted hours of operation pertaining to the USE Special Permit previously approved by the Board, pursuant to Sections 10.3 and 3.5.15 (10) of the Acton Zoning Bylaw (hereinafter the Bylaw) to establish and operate a Commercial Recreation Use with a net floor area of 2,000 square feet or greater, for property located at 531 Main Street in Acton, Massachusetts, owned by Gossels Werner F ET UX Trustee, Laine Realty Trust, 17 Bennett Road, Wayland, MA 01778. The property is shown on the 2007 Acton Town Atlas map E-4 as parcels 67 (hereinafter the Site).

The Board reviewed the applicant's request during a public hearing on August 5, 2013. Board members Janet Adachi (Chair),

Mike Gowing (Vice Chair), Katherine Green (Clerk), David Clough and John Sonner were present at the hearing. The minutes of the hearing and submissions upon which this Decision is based were found and referred to in the Town Clerk's office or the office of the Board at the Acton Town Hall.

1 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 1.1 The hours of operation identified within the Original USE Special permit were incorrect.
- 1.2 The Applicant would like to be able to conduct instructional karate classes any time during the day between the hours of 9:00 am and 9:00 pm, seven (7) days per week. This allows for the flexibility of scheduling instructional classes based upon parent and clientele schedules and needs.
- 1.3 The Site is located within a Light Industrial (LI) zoning district.
- 1.4 The Use and the Site, are not located within the immediate vicinity of any residential abutters.
- 1.5 The Use and the Plan as amended and conditioned in this First Amendment Decision will be reasonably consistent with the Master Plan, in harmony with the purpose and intent of the Bylaw, will not be detrimental or injurious to the neighborhood in which the Use is to take place, is appropriate for the Site, provides for convenient and safe vehicular and pedestrian movement within and through the site, provides an adequate number of parking spaces, provides adequate methods of refuse and waste removal from the site, and is in harmony with the purpose and intent of the Bylaw.

2 BOARD ACTION

Therefore, the Board voted unanimously on August 5, 2013 to GRANT the requested First Amendment to USE Special Permit #05/06/13 – 443 subject to and with the benefit of the following conditions, and limitations.

3 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the USE Special Permit that is granted with this First Amendment Decision null and void, without force and effect, and shall constitute grounds for revocation of this USE Special Permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this USE Special Permit using any and all powers available to it under the law.

- 3.1 The USE shall be established and operated at all times in compliance with all applicable requirements promulgated by the Acton Board of Health.
- 3.2 The USE shall be established and conducted at all times in accordance with the terms of the original USE Special Permit and shall conform with and be limited to the improvements indicated on the Plan as previously approved.
- 3.3 The Applicant shall ensure that this First Amendment Decision is promptly recorded at the Middlesex South District Registry of Deeds or the Land Court. Proof of recording shall be forwarded to the Zoning Enforcement Officer prior to the issuance of any building permit for work on the Site, or prior to any Certificate of Occupancy for the Use, whichever occurs first.

see
hours of
operation
Section 2.9
of original
USE special
permit

Change

CHANGE

4 LIMITATIONS

The authority granted to the Applicant under this USE Special Permit is limited as follows:

- 4.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 4.2 This USE Special Permit First Amendment, applies only to the Site identified in this and the original Decision and to the proposed USE and activities as thereunder approved.
- 4.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 The original USE Special Permit shall lapse if substantial use thereof has not commenced within two years of the filing date of the original Decision with the Town Clerk, except for good cause, or if construction under the USE Special Permit is not continued through to completion as continuously and expeditiously as is reasonable. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 1 year. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the original USE Special Permit and to require any appropriate modifications of the Plan.
- 4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of the original USE Special Permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

5 APPEALS

Any person(s) aggrieved by the issuance of this USE Special Permit has the right to appeal pursuant to M.G.L., Ch. 40A, §. 17 and shall file such appeal within 20 days after the filing date of this Decision with the Town Clerk.

The Town of Acton Board of Selectmen

Janet Adachi, Chair

Date Filed with Town Clerk

Eva K. Szkaradek, Town Clerk

This is to certify that the 20-day appeal period on this Decision has passed and there have been no appeals made to this office.

Eva K. Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owner

Building Commissioner
Town Engineer
Conservation Administrator
Police Chief
Assistant Assessor

Health Director
Municipal Properties Director
Town Manager
Acton Water District
Planning Department